

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD'S AD HOC  
COMMITTEE

IN THE MATTER OF THE: )  
 )  
PUBLIC HEARING ON THE )  
APPEAL OF DENIAL OF )  
DEMENNO/KERDOON'S RECYCLING )  
EQUIPMENT TAX CREDIT )  
APPLICATION )  
\_\_\_\_\_ )

DATE AND TIME: THURSDAY,  
JULY 24, 1997  
2:35 P.M.

PLACE: BOARD ROOM  
8800 CAL  
CENTER DRIVE  
SACRAMENTO,  
CALIFORNIA

REPORTER: BETH C.  
DRAIN, RPR, CSR  
CERTIFICATE  
NO. 7152

BRS FILE NO.: 40116B

APPEARANCES

MR. DANIEL G. PENNINGTON, MEMBER

MS. JANET GOTCH, MEMBER

MR. RALPH CHANDLER, MEMBER

STAFF PRESENT

MS. DEBORAH BORZELLERI, LEGAL COUNSEL MS. MARLENE KELLY,  
BOARD SECRETARY

MS. CAREN TRGOVCICH, DEPUTY DIRECTOR, WASTE  
PREVENTION AND MARKETING DEVELOPMENT

ON BEHALF OF THE APPELLANT:

J. W. NEFF, ATTORNEY AT LAW, COOPERS &  
LYBRAND

EDITH E. HAMILTON, CPA, COOPERS & LYBRAND

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DISCUSSION	21
ACTION TAKEN UNDER ADVISEMENT	

EXHIBITS ATTACHED

NO.	DESCRIPTION
1	COOPERS & LYBRAND POSITION PAPER

1 SACRAMENTO, CALIFORNIA; THURSDAY, JULY 24, 1997

2 2:35 P.M.

3

4 CHAIRMAN PENNINGTON: I THINK WE'RE  
5 READY. I THANK YOU ALL FOR GIVING US AN  
6 OPPORTUNITY TO GET A QUICK SANDWICH AND A BREAK  
7 FROM A MEETING THAT STARTED AT 8:15 THIS MORNING.  
8 THANK YOU.

9 SO LET'S SEE. LIKE TO CALL TO ORDER  
10 THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD'S  
11 AD HOC COMMITTEE MEETING ON THE APPEAL OF THE  
12 DENIAL OF THE DEMENNO/KERDOON'S RECYCLING  
13 EQUIPMENT TAX CREDIT APPLICATION.

14 WOULD THE SECRETARY CALL THE ROLL.

15 THE SECRETARY: EXECUTIVE DIRECTOR  
16 CHANDLER.

17 MEMBER CHANDLER: HERE.

18 THE SECRETARY: BOARD MEMBER GOTCH.

19 MEMBER GOTCH: HERE.

20 THE SECRETARY: CHAIRMAN PENNINGTON.

21 CHAIRMAN PENNINGTON: HERE. QUORUM IS  
22 PRESENT.

23 ALL THE PERSONS HERE TO TESTIFY ON  
24 BEHALF OF THE APPELLANT PLEASE STAND AND BE  
25 SWORN -- STATE YOUR NAME FOR THE COURT REPORTER,

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1       AND SHE WILL SWEAR YOU IN.

2               MR. NEFF:   JOSEPH NEFF WITH COOPERS &  
3       LYBRAND.

4               MS. HAMILTON:   EDITH HAMILTON WITH  
5       COOPERS & LYBRAND.

6  
7               PROSPECTIVE WITNESSES,  
8       HAVING BEEN FIRST DULY SWORN BY THE CERTIFIED  
9       SHORTHAND REPORTER, TESTIFIED AS FOLLOWS:

10

11              CHAIRMAN PENNINGTON:   THANK YOU.   OKAY.  
12       NOW WE'LL HAVE THE STAFF GIVE US THEIR OVERVIEW  
13       AND BACKGROUND.

14              MS. TRGOVCICH:   MR. CHAIRMAN AND MEMBERS  
15       OF THE COMMITTEE, JAN WELCH -- JAN HOWARD -- I'M  
16       SORRY -- OF THE WASTE PREVENTION AND MARKET  
17       DEVELOPMENT DIVISION WILL BE PROVIDING A VERY  
18       BRIEF BACKGROUND FOR YOU COVERING BOTH THE  
PROGRAM

19       AND THE NATURE OF THE PROCESS THAT WE'VE GONE  
20       THROUGH.   SO WITH THAT, I'D LIKE TO TURN IT  
OVER.

21              MS. HOWARD:   GOOD AFTERNOON, CHAIRMAN  
AND

22       COMMITTEE.   MY NAME IS JAN HOWARD.   I'M WITH THE  
23       THAT WASTE PREVENTION AND MARKET DEVELOPMENT

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24        DIVISION.    I'M THE LEAD ANALYST FOR THE

RECYCLING

25        EQUIPMENT TAX CREDIT PROGRAM AND THE REVIEWING

1 ANALYST ON THE DEMENNO/KERDOON APPLICATION.

2 THE RECYCLING EQUIPMENT TAX CREDIT  
3 IS A 40-PERCENT TAX CREDIT FOR CALIFORNIA STATE  
4 TAXPAYERS FOR QUALIFIED PROPERTY PURCHASED AND PUT  
5 INTO OPERATION BY MANUFACTURERS. THE BOARD IS  
6 MANDATED BY STATUTE TO REVIEW TAX CREDIT  
7 APPLICATIONS TO DETERMINE WHETHER THE EQUIPMENT  
8 MEETS ALL THE REQUIREMENTS AS QUALIFIED PROPERTY.

9 QUALIFIED PROPERTY IS DEFINED AS  
10 MACHINERY OR EQUIPMENT WHICH IS USED BY THE  
11 TAXPAYER EXCLUSIVELY TO MANUFACTURE FINISHED  
12 PRODUCTS COMPOSED OF AT LEAST 50 PERCENT SECONDARY  
13 WASTE OF WHICH AT LEAST 10 PERCENT IS  
14 POSTCONSUMER. THE STATUTE FURTHER DEFINES  
15 POSTCONSUMER AND SECONDARY WASTE AS SOLID WASTE.  
16 SOLID WASTE, AS DEFINED IN THE PUBLIC RESOURCES  
17 CODE, SPECIFICALLY EXCLUDES HAZARDOUS WASTE.

18 DEMENNO/KERDOON SUBMITTED THEIR  
19 APPLICATION FOR ELIGIBILITY TO RECEIVE THE TAX  
20 CREDIT FEBRUARY 5TH, 1997, FOR THEIR ETHYLENE  
21 GLYCOL DISTILLATION SYSTEM TO PROCESS USED  
22 ANTIFREEZE AND COOLANT PRODUCTS TO PRODUCE  
23 ETHYLENE GLYCOL, WHICH CAN BE SUBSTITUTED FOR  
24 VIRGIN ETHYLENE GLYCOL.  
25 ACCORDING TO THE CALIFORNIA CODE OF



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1       REGULATIONS ENVIRONMENTAL HEALTH STANDARDS FOR THE  
2       MANAGEMENT OF HAZARDOUS WASTE, ETHYLENE GLYCOL IS  
3       A HAZARDOUS WASTE.

4                       ON MARCH 6, '97, STAFF DENIED  
5       ELIGIBILITY BASED ON THE FACT THAT THE EQUIPMENT  
6       PURCHASED BY DEMENNO/KERDOON IS USED EXCLUSIVELY  
7       TO PROCESS HAZARDOUS WASTE, NOT SOLID WASTE AS  
8       REQUIRED BY STATUTE.

9                       APRIL 1ST, '97, BOARD ISSUED THE  
10      LETTER NOTIFYING THE APPLICANT OF THE DENIAL WITH  
11      PROCEDURES TO FOLLOW IF THE APPLICANT CHOSE TO  
12      APPEAL THE DENIAL. MAY 29TH, THE APPLICANT  
13      APPEALED THE DENIAL TO CHAIRMAN PENNINGTON, WHICH  
14      BRINGS US TO WHY WE ARE HERE TODAY AND CONCLUDES  
15      MY PRESENTATION.

16                      CHAIRMAN PENNINGTON:   OKAY.   THANK YOU.  
17      NOW, IF MR. NEFF AND MS. HAMILTON.

18                      MR. NEFF:   I'M NOT FAMILIAR WITH THE  
19      PROCEDURES, MR. CHAIRMAN.   PLEASURE TO BE HERE.  
20      OUR INTENT IS RELATIVELY SIMPLE TODAY.   CERTAINLY  
21      AS YOU ARE AWARE, ON BEHALF OF OUR CLIENT, WE HAVE  
22      FILED AN APPLICATION FOR THE RECYCLING TAX CREDIT.

23                      IN THAT CONTEXT AND BASED UPON THE  
24      SUMMARY THAT'S BEEN GIVEN BY STAFF AND OUR  
25      ANALYSIS, PRIMARILY A COUPLE OF ISSUES HAVE

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1        ARISEN.  INITIALLY, WHAT WE WOULD LIKE TO DO AS WE  
2        ADDRESS EACH ONE OF THE SPECIFICS AS WE REVIEWED  
3        IT IN THE APPLICATION AND CERTAINLY ON THE APPEAL  
4        WITH RESPECT TO THE DENIAL, WHAT I'D LIKE TO DO IS  
5        FIRST INITIALLY TURN THE TIME OVER, WHICH SEEMS  
6        APPROPRIATE, TO MY COLLEAGUE.  SHE'LL BASICALLY  
7        DESCRIBE WHAT THE PROCESS OF -- THE DISTILLATION  
8        PROCESS IS AND THEN, SECONDLY, WE'LL RUN THROUGH  
9        THE APPLICATION AND THEN STATUTORILY LOOK AT THE  
10       CONSTRUCTION.

11                    I THINK THE PRIMARY ISSUE THAT WE  
12       WANT TO ADDRESS TODAY IS RELEVANT TO THE  
13       DEFINITIONS.  AND AS WE LOOK AT IT IN OUR PURVIEW,  
14       WE'VE MET THE QUALIFICATION WITH RESPECT TO THE  
15       APPLICATION, THE GENERAL INTENT, AND THE SPECIFIC  
16       INTENT OF THE LEGISLATURE IN ADAPTING THE CREDIT  
17       FOR RECYCLING, AND THEN LOOKING AT SPECIFICALLY  
18       THE STATUTORY LANGUAGE IN THE APPLICATION OF THE  
19       DEFINITION OF QUALIFIED PROPERTY, WHICH RELATES  
20       TO  
21       PROPERTY AS RECYCLABLE, AND THEN SPECIFICALLY  
22       LOOKING AT WHAT STAFF'S CONCLUSION AS TO  
23       HAZARDOUS

24       WASTE.

25                    WITH THAT, I'LL TURN THE TIME TO  
26       EDITH.

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25 MS. HAMILTON: I DO HAVE A CHART HERE.  
I

1       DON'T HAVE IT BLOWN UP.

2                   CHAIRMAN PENNINGTON:   THERE'S A MACHINE  
3       RIGHT THERE IN THE -- I THINK CAREN IS GOING TO  
4       SHOW YOU.

5                   MS. HAMILTON:   I THINK ACTUALLY I WILL  
6       ZOOM IN A LITTLE BIT.

7                   MR. NEFF:   WE'RE EXPERTS AT THAT AS YOU  
8       CAN TELL.

9                   MS. HAMILTON:   DEMENNO/KERDOON IS A  
10      RECYCLER AND MANUFACTURER OF A VARIETY OF  
11      DIFFERENT PRODUCTS.   ONE OF THE PROCESSES THEY  
12      HAVE INVOLVES TAKING ANTIFREEZE AND COOLANT FROM  
13      SEVERAL DIFFERENT SOURCES, WHETHER IT BE A SERVICE  
14      STATION, AN ECONO LUBE 'N TUNE -- THEY HAVE  
15      SEVERAL COMPANIES THAT ARE TRANSPORTATION  
16      COMPANIES -- LOS ANGELES BUS DISTRICT, THAT TYPE  
17      OF INDUSTRY.

18                   THE USED ANTIFREEZE AND COOLANT  
19      ARRIVES AT THEIR LOCATION, AND IT BEGINS A  
20      DISTILLATION/RECYCLING/MANUFACTURING PROCESS.  
21      EVERYTHING THAT IS RECEIVED AT DEMENNO/KERDOON  
22      GOES OUT AS ANOTHER PRODUCT.   THERE'S NO WASTE IN  
23      IT.

24                   AND THE PROCESS INVOLVES SEVERAL  
25      THINGS.   THE FIRST THING IS THE ANTIFREEZE THEY

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1 JUST SHOWS A LITTLE BIT OF WHAT THAT DOES. WE  
2 JUST START OFF WITH OUR -- WHERE IT COMES FROM,  
3 THEN WE SEE KIND OF HOW IT'S -- LET ME SEE IF I  
4 CAN ZOOM OUT JUST A LITTLE BIT TO GET THE THREE  
5 PROCESSES ALL IN ONE STEP. WHERE FILTRATION,  
6 WHICH PULLS OUT THE OIL AND RESIDUE, THE  
7 DISTILLATION, WHICH SEPARATES THE WATER FROM THE  
8 ETHYLENE GLYCOL, AND YOU END UP WITH YOUR FINISHED  
9 PRODUCT.

10 MR. NEFF: ALL RIGHT. WHAT WE'D LIKE TO  
11 DO TODAY IS GENERICALLY LOOK AT SOME OF THE  
12 APPLICATIONS, AND YOU HAVE THE STAFF DOCUMENT, I  
13 BELIEVE, WHICH IS THE BRIEF THAT WAS PREPARED BY  
14 STAFF WITH RESPECT TO THE ISSUE WITH THE BRIEFING  
15 PACKAGE.

16 FIRST OF ALL, YOU CAN SEE, AT LEAST  
17 ON THE INITIAL PAGE, THEY'RE LOOKING AT THERE'S  
18 BASICALLY FIVE QUALIFICATIONS. THAT'S ON THE FACE  
19 OF THE STATUTE, AND ALSO THAT'S INCORPORATED IN  
20 THE APPLICATION. THOSE ARE BEING LOCATED IN  
21 CALIFORNIA, OBVIOUSLY, WHICH WE QUALIFY FOR;  
22 PLACED IN SERVICE DURING 1-1-89 AND TO 12-31-93,  
23 WHICH WAS QUALIFIED.

24 THE OTHER ISSUE WAS -- THE OTHER  
25 QUALIFIER WAS PRODUCE MARKETABLE PRODUCT WITH

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1 ECONOMIC VALUE FOR CONSUMERS, WHICH WE DO QUALIFY.  
2 AND THEN THE FIFTH WAS TO UTILIZE SECONDARY AND  
3 POSTCONSUMER WASTE DIVERTED FROM CALIFORNIA  
4 WASTESTREAM, WHICH ALL THOSE FIVE POINTS, AT LEAST  
5 WITH RESPECT TO APPLICATION GENERICALLY.

6 THE SYSTEM, AS YOU'VE SEEN, HAS BEEN  
7 DESCRIBED BY MS. HAMILTON. AND IN THAT CONTEXT,  
8 WITH FILING THE APPLICATION, WHEN WE DID OUR  
9 INITIAL REVIEW, A LOOKING TO SEE WHETHER OR NOT  
10 THERE WAS A QUALIFICATION FROM OUR PERSPECTIVE  
11 FROM A TAX PERSPECTIVE -- AND OBVIOUSLY MY  
12 BACKGROUND IS NOT IN THE ENVIRONMENTAL AREA, BUT  
13 IS AS A TAX LAWYER AND HAVING BEEN INVOLVED, AT  
14 LEAST WITH TAX ISSUES, THROUGHOUT THE MAJORITY OF  
15 MY CAREER FOR THE LAST 18 YEARS. AND DEALING WITH  
16 A NUMBER OF TAX CREDITS AND MOTIVATIONAL POINTS,  
17 THERE'S A COUPLE ISSUES THAT WE'D LIKE TO ARISE.

18 FIRST OF ALL, THE CREDIT AS ENABLED  
19 IN THE LEGISLATION, THE NAME OF THE LEGISLATION  
20 AND THE ACTUAL STATUTORY CONTEXT IS FOUND IN  
21 CALIFORNIA REVENUE TAXATION CODE 23612.5. AND THE  
22 DENIAL OF THE APPLICATION SPECIFICALLY FOCUSES ON  
23 AN ISSUE DEALING WITH THE CONSTRUCTION OF SOLID  
24 WASTE AND THE DEFINITION OF SUCH.

25 WHAT I WOULD LIKE TO POINT OUT, AS

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1 WE RUN THROUGH THE ISSUES THAT ARE SUMMARIZED IN  
2 YOUR BRIEFING DOCUMENT, EXACTLY HOW THAT  
3 APPLICATION APPLIES AND, MOST IMPORTANTLY, TO DRAW  
4 THE ONE SPECIFIC CONCLUSION IS IS THAT THERE IS  
5 GENERAL LATITUDE AS TO THE DEFINITION OF SOLID  
6 WASTE.

7 SPECIFICALLY THE STATUTE STATES, AND  
8 YOU CAN LOOK IN YOUR BRIEFING DOCUMENT, SAYS THAT  
9 DEFINED WASTE ELIGIBLE FOR THE TAX CREDIT -- TAX  
10 CREDIT AS ONLY THOSE PRODUCTS, ELLIPSIS, WHICH  
11 HAVE SERVED THEIR INTENDED END USES WOULD NORMALLY  
12 BE DISPOSED OF AS SOLID WASTE. AND WHAT I WANT TO  
13 DO TO BE ABLE TO GET YOU TO THE CONTEXT OF AND  
14 CERTAINLY LOOKING -- THERE'S REALLY -- HOPEFULLY  
15 WE CAN PAINT AN ATMOSPHERE HERE.

16 AND THERE'S ONE ISSUE DEALING WITH  
17 THE ENVIRONMENTAL ISSUES WHICH LOOK INTO THE  
18 DEFINITION WITHIN THE STATUTE AND THE APPLICATION  
19 OF THE PUBLIC RESOURCES CODE. THERE'S ANOTHER  
20 ISSUE THAT RELATES TO THE TAXING SIDE AND FROM A  
21 TAX PERSPECTIVE FROM A TAX CONSTRUCTION SCHEME.

22 AND REALLY GIVING THE OPEN LATITUDE  
23 WITH ONE WITH THE GENERAL INTENT AND TO PROVIDING  
24 CREDITS TO TAKE OFF RECYCLABLE ITEMS, WHICH THE  
25 PRODUCT THAT OUR CLIENT DISTILLS IS A RECYCLED

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1       PRODUCT BY THE DEFINITION BECAUSE IT IS  
RECYCLABLE

2       AND REUSED, AND IN LOOKING TO THE APPLICATION OF  
3       WHAT DEFINITION SHOULD BE USED AS RELATING TO  
4       SOLID WASTE.

5                       THE BOARD HAS CONCLUDED,  
6       SPECIFICALLY AND EXCLUSIVELY, THAT SOLID WASTE IS  
7       NONHAZARDOUS WASTE. AND WHAT WE WOULD PROPOSE  
8       TODAY, YOU CAN SEE, IS WE OUTLINED THE SIX ISSUES  
9       THAT WE'VE ADDRESSED IN OUR INITIAL PETITION IN  
10      OUR APPLICATION AND THEN, SECONDLY, IN OUR APPEAL  
11      THAT IT RELATES TO THE ISSUE OF WOULD NORMALLY BE  
12      DISPOSED OF AS SOLID WASTE.

13                     WE TAKE THE POSITION IS THAT  
THERE'S

14      OBVIOUSLY LATITUDE AS TO THE DEFINITION OF AN  
ITEM

15      THAT WOULD BE ASSOCIATED NORMALLY DISPOSED OF AS  
16      SOLID WASTE. BOARD IS TAKING THE POSITION -- I  
17      KNOW YOU'RE GOING TO HAVE TO WORK WITH ME ON THIS  
18      ONE -- IS THAT VERY SPECIFICALLY THEY SAID SOLID  
19      WASTE, NO IF, ANDS, OR BUTS, EXCLUSIVELY,  
20      SPECIFICALLY IS BY THEIR DEFINITION, AS IT  
RELATES

21      TO THE ENVIRONMENTAL ISSUES, IS NONHAZARDOUS  
22      WASTE.



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23                               WHEN I READ THE STATUTE, I THINK  
24       ANYBODY FROM A CONSTRUCTION -- STATUTORY  
25       PERSPECTIVE AND LOOKING AT CONSTRUCTION WOULD

1 CONCLUDE THAT WOULD NORMALLY BE DISPOSED OF  
2 DOESN'T MEAN EXCLUSIVELY, SOLELY. WOULD NORMALLY  
3 MEANS THAT MOST OF THE TIME, GENERALLY, PROBABLY,  
4 BUT IT DOESN'T MEAN EXCLUSIVE.

5 AND I THINK IF WE LOOK BACK AT WHAT  
6 THE GENERAL INTENT OF THE LEGISLATION WAS, WE'LL  
7 OPEN THE OPPORTUNITY FOR INDIVIDUALS INVOLVED IN  
8 MANUFACTURING TO HAVE RECYCLABLE PRODUCTS. I  
9 THINK WE FIT THAT DEFINITION AND SHOULDN'T BE  
10 SPECIFICALLY LIMITING.

11 AS THE ISSUE ONE, YOU CAN SEE, AS IS  
12 POINTED OUT, OUR PRIMARY ISSUE THAT WAS RELATED TO  
13 IN THE SUMMARY THAT WE LOOKED AT, PURSUANT TO  
14 THIS, STATES THAT PUBLIC RESOURCES CODE SECTION  
15 40141 DOES NOT SPECIFICALLY STATE ETHYLENE  
GLYCOL  
16 IS A HAZARDOUS WASTE.

17 THE BOARD'S RESPONSE WAS THAT  
THEY  
18 LOOK TO A COUPLE OF SPECIFICS. ONE IS 40141  
19 PROVIDES A DEFINITION WHICH COINCIDES WITH THE  
20 DEFINITION OF HAZARDOUS WASTE FOUND IN THE  
HEALTH  
21 AND SAFETY CODE. WHAT WE WOULD TAKE THE  
POSITION  
22 IS IS, AGAIN, THAT THE BOARD HAS SELECTED

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LOOKING

23 ON THE RIGHT SIDE OF DEALING WITH ENVIRONMENTAL

24 ISSUES AND LOOKED AT SPECIFICALLY LOOKING AT

THE

25 PUBLIC RESOURCES CODE AS DEFINING THIS TYPE OF

1 WASTE PRODUCT AS BEING HAZARDOUS. ON THE OTHER  
2 CONTEXT AND THAT WOULD BE LOOKED AT VERY  
3 EXCLUSIVELY.

4 AND ALL THE RESPONSES THAT WE'VE  
5 RECEIVED BACK FROM THE BOARD HAS RELATED TO THE  
6 EXCLUSIVITY OF ANYTHING THAT PERHAPS MAY BE  
7 HAZARDOUS AS ASSOCIATED WITH THE DEFINITION. IN  
8 OUR CONTEXT WE TAKE THE OPPOSITE OF THAT AND SAID  
9 IN THE PROBABILITY OR WOULD LIKELY BE DISPOSED AS  
10 A SOLID WASTE LEAVES LATITUDE TO CERTAIN OTHER  
11 ITEMS. AND THAT'S THE CONSTRUCTION THAT THEY  
12 DEALT WITH.

13 AND WHAT WE WOULD PROPOSE, AT LEAST  
14 WHAT OUR STATED POSITION WOULD BE IS THAT, NOT  
15 NECESSARILY AS IT RELATED TO HAZARDOUS WASTE OR  
16 SOLID WASTE, BUT THERE'S A NUMBER OF DEFINITIONS  
17 WE COULD LOOK TO. AND THROUGHOUT THAT WE HAVE --  
18 THERE'S ESSENTIALLY THREE OR FOUR OF THE OTHER  
19 FOLLOWING ISSUES THAT LOOK SPECIFICALLY TO THE  
20 CONTEXT OF HAZARDOUS WASTE COULD BE DEFINED BY THE  
21 FEDERAL LEGISLATION, WHICH WOULD NOT INCLUDE THIS  
22 SPECIFIC PRODUCT AS HAZARDOUS. WE COULD LOOK TO  
23 THE HEALTH AND SAFETY CODE THAT WOULD NOT ALSO  
24 DESCRIBE IT AS BEING HAZARDOUS. AND THROUGHOUT  
25 THAT THERE'S A NUMBER OF DIFFERENT LATITUDES OF

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1 BEING ABLE TO BE ABLE TO CONSTRUED.

2 AND THAT WOULD MEASURE UP WITH OUR  
3 CONCLUSION, OR AT LEAST WITH THE INTENDED  
4 LEGISLATIVE INTENT WAS TO PROVIDE AN OPEN  
5 DEFINITION WITH RESPECT TO WHAT IS SOLID WASTE  
6 BECAUSE BY THE SPECIFIC, IT WOULD NOT ALWAYS HAVE  
7 TO BE SOLID WASTE BECAUSE IT SAYS IT WOULD  
8 PROBABLY BE DISPOSED AS SOLID WASTE.

9 SPECIFICALLY, IF YOU LOOK AT SOME  
10 OF THE ISSUES, AND, AGAIN, LOOKING AT OUR ISSUES  
11 WHICH WOULD BE NO. 5 AND SO FORTH, AND THEN  
12 DEALING WITH SOME OF THE FEDERAL ISSUES THAT ARE  
13 ASSOCIATED WITH THAT, AND THEN ALSO WHAT THE  
14 CATEGORY OF ASPHALT AND TIRES, THAT WE RAISE THE  
15 POINT THAT, AGAIN, SIMILAR TYPE OF PRODUCTS BY  
16 DEFINITION OR EVEN BY THE PUBLIC VIEW, WE WOULD  
17 LOOK AND SAY THAT THESE ARE OTHER ITEMS THAT MAY  
18 BE DEEMED TO BE HAZARDOUS. AT PART OF THE TIME  
19 DURING THE PROGRAM, THEY WERE DEEMED TO BE SUBJECT  
20 TO THE RECYCLING CREDIT. AT OTHER TIMES THEY WERE  
21 NOT.

22 AND SO, AGAIN, WE FEEL THAT THERE  
23 WAS OBVIOUSLY A FLUX ON THE SIDE OF BEING WHAT  
24 CLASSIFICATIONS ARE. AND THROUGHOUT THAT TO THE  
25 LIFETIME OF THE CREDIT, WHICH IS NOT EMPOWERED AT

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1       THIS POINT, THAT THERE WERE A NUMBER OF DIFFERENT  
2       ISSUES THAT RELATED TO THE CREDITS AND SO FORTH.

3                       WITH RESPECT TO -- AGAIN, IF WE  
4       COULD JUST TURN TO ISSUE 5, THAT EVEN IN THE EVENT  
5       THAT -- AND, AGAIN, OUR SUMMARY OF OUR ISSUE IS  
6       UNDERNEATH THE REVENUE AND TAXATION CODE, THERE  
7       WAS A GENERAL INTENT. THAT INTENT WAS TO PROVIDE  
8       AN OPPORTUNITY FOR MANUFACTURERS DURING THE  
9       PRIMARY PURPOSE AS STATED IN THE ASSEMBLY BILL  
10      THAT THE ENABLING LEGISLATION WAS PUT IN PLACE TO  
11      BE ABLE TO TAKE OUT OF THE WASTESTREAM PRODUCT  
12      THAT WOULD BE VIEWED TO -- THAT COULD BE POSSIBLY  
13      RECYCLED.

14                     OUR CLIENT AND OUR PROCESS AND THE  
15      DISTILLATION PROCESS HAS TAKEN A PRODUCT THAT'S  
16      UNFAVORABLE, CONTINUES TO RECYCLE THAT. IT'S IN  
A

17      CAPTURED ENVIRONMENT AND WOULD CONTINUE TO  
PROVIDE

18      THIS -- THIS TYPE OF PRODUCT, THE ETHYLENE  
GLYCOL,

19      AND PROVIDE THAT TO OTHER RESELLERS.

20                     AND THROUGHOUT THAT, AT LEAST FROM  
21      OUR PERSPECTIVE, WE TAKE THE POSITION, AND  
22      CONSISTENTLY IF WE WERE TO LOOK AT OURSELVES AS



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23        CONSUMERS, IF WE WERE TO LOOK AT OURSELVES  
24        OBVIOUSLY AS CITIZENS OF THE STATE OF CALIFORNIA,  
25        THAT THE INTENT WOULD BE IS THAT IF THERE IS A

1       GENERAL RECYCLING TAX CREDIT.   AND THOSE TAX  
2       CREDITS, FROM BEING A TAX PRACTITIONER, GENERALLY  
3       THAT THOSE TAX CREDITS ARE LOOKED TO BE ABLE TO  
4       LEGISLATE CERTAIN DESIRED BEHAVIOR.   THAT DESIRED  
5       BEHAVIOR WOULD BE ABLE TO INCENTIVIZE BUSINESSES  
6       AND MANUFACTURERS TO RECYCLE AND CERTAINLY RECYCLE  
7       PRODUCTS THAT WOULD BE DEEMED TO BE UNFAVORABLE.  
8       AND ONE OF THOSE PRODUCTS THAT WOULD BE  
9       UNFAVORABLE PERHAPS FROM A CONTAMINATORY  
10      STANDPOINT WOULD BE ANTIFREEZE.   AND SO IN THAT  
11      CONTEXT, WE SPECIFICALLY LOOK AND SAY AS A  
12      CONSUMER, WE WOULD WANT THIS TO BE RECYCLED, BE  
13      TAKEN OUT OF THE WASTESTREAM TO BE REEMPLOYED TO  
14      BE PUT INTO A PROCESS THAT WOULD BE AVAILABLE FOR  
15      THE TAX CREDIT.

16                   ON THE OTHER SIDE IS FROM AN  
17      ENVIRONMENTAL PERSPECTIVE, WHERE THE BOARD IS,  
18      THEY'RE LOOKING AT VERY SPECIFICALLY STRUCTURING  
19      THEIR CONCLUSION AS IT RELATES TO THE EXCLUSIVITY  
20      AS TO SOLID WASTE.   BUT I THINK IF YOU LOOK AT AND  
21      IF YOU LOOK AT SPECIFICALLY THE STATUTE, IT SAYS  
22      WOULD PROBABLY BE DISPOSED OF AS SOLID WASTE.

23                   AND SO THE CONCLUSION COULD BE IS  
24      THAT STAFF COULD USE THE DEFINITIONS FOUND IN THE  
25      PUBLIC RESOURCES CODE, THEY COULD LOOK TO FEDERAL

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1       LEGISLATION, WHICH SPECIFICALLY STATES THAT  
2       ETHYLENE GLYCOL IS NOT HAZARDOUS, AND DURING THE  
3       PERIOD OF TIME, EVEN TO THE ACTUAL APPLICATION OF  
4       THE CREDIT PROGRAM, THAT CERTAIN ITEMS AS TIRES  
5       AND ASPHALT WERE NOT AVAILABLE FOR THE CREDIT, AND  
6       THAT THERE WAS A CONTINUED FLUX.

7                       AND SO OUR BASIC CONCLUSION WOULD BE  
8       IS THAT THE AVAILABILITY FROM THE LEGISLATOR FROM  
9       THE TAX PERSPECTIVE WAS TO MOTIVATE TAXPAYERS TO  
10      RECYCLE. WITHOUT A DOUBT ON THE FACE OF THE  
11      DOCUMENT, IF YOU LOOK AT THE APPLICATION, IF YOU  
12      LOOK AT THE STATUTE, EVERYTHING RELATES TO A TAX  
13      CREDIT. AND WE WOULD VIEW THAT THAT THE TAX  
14      CREDIT SHOULD BE CONSTRUED IN FAVOR OF THE  
15      TAXPAYER, WHICH MOST TAX CREDITS ARE, AND THAT IT  
16      SHOULD BE GIVEN LIBERAL CONSTRUCTION AND THAT THE  
17      DEFINITION WOULD APPLY TO THAT CONTEXT.

18                      AND IN SUMMARY, THAT'S PRETTY IT IN  
19      A NUTSHELL. FROM OUR CONTEXT, A LITTLE BIT TOO  
20      STATUTORY INVOLVED AND FROM A CONSTRUCTION, BUT WE  
21      DO FEEL, STRONGLY FEEL, AND IF WE WERE LOOKING OUT  
22      THERE AND SAID IF WE'RE RECYCLERS, WE'RE LOOKING  
23      FOR CREDITS AND THE APPLICATION WAS BROAD, THAT IT  
24      PROVIDES A GOOD SERVICE RATHER THAN BEING DUMPED  
25      IN CONTAMINATED PROPERTY, WHETHER IT BEING SHIPPED

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1 OR DEALT INTO PERHAPS AN UNFAVORABLE SETTING.

2 CHAIRMAN PENNINGTON: I TAKE IT THAT YOUR  
3 ARGUMENT IS, IF I MAY REDUCE IT DOWN HERE, THAT --  
4 I GET TWO THINGS. ONE IS YOU THINK THAT WE'RE  
5 INTERPRETING THE DEFINITION OF SOLID WASTE TOO  
6 NARROWLY. AND THAT IF WE TOOK A BROADER LOOK AT  
7 IT, IT WOULD INCLUDE THIS ANTIFREEZE MATERIAL.  
8 AND THE OTHER THING IS IS THAT YOU ARE SUGGESTING  
9 THAT THE LAW WAS INTENDED TO COVER A BROADER AREA  
10 THAN WE'RE APPLYING IT.

11 MR. NEFF: CORRECT.

12 CHAIRMAN PENNINGTON: OKAY. ANY  
13 QUESTIONS OF THESE FOLKS?

14 MR. CHANDLER: LET ME TAKE THAT A LITTLE  
15 BIT FARTHER. YOU KNOW, YOUR CLIENT, ASSUMING YOU  
16 ARE AWARE, IS PROBABLY A CERTIFIED HAULER UNDER  
17 THE REGULATIONS OF DTSC AS A HAULER OF HAZARDOUS  
18 WASTE. HAVE YOU INQUIRED WITH THAT DEPARTMENT HOW  
19 THEY VIEW THIS INTERPRETATION, THAT THIS MATERIAL  
20 FALLS UNDER THE PURVIEW OF THE WASTE BOARD'S  
21 MANAGED PROGRAM AND WHETHER OR NOT DTSC HAS A  
22 PROGRAM THAT APPLIES TO THIS MATERIAL; IN OTHER  
23 WORDS, A TAX CREDIT PROGRAM FOR WHAT WE CONSIDER

A

24 HAZARDOUS WASTE.

25 MR. NEFF: I THINK ONE OF THE ISSUES

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THAT

1 WE DID RAISE, AND I THINK WAS A RESPONSE IN THE  
2 STAFF'S BRIEF, WAS IS THAT IF THERE WAS AN ISSUE  
3 WITH DEALING WITH THE STATUTORY CONSTRUCTION, IT  
4 SHOULD HAVE BEEN DONE PERHAPS BY THE TOXIC  
5 SUBSTANCE, WHATEVER THAT GROUP IS THAT YOU JUST  
6 TALKED ABOUT. OKAY. AND FROM THAT PERSPECTIVE,  
7 THERE'S NOT A SIMILAR PROGRAM. IT WAS PURELY  
8 LOOKED AS A RECYCLABLE ISSUE, HAS NOTHING TO  
9 REALLY DEAL WITH THE CONTEXT BECAUSE, AGAIN,  
10 YOU'RE AUTOMATICALLY MAKING THE CONCLUSION, I  
11 GUESS, THAT IT'S HAZARDOUS IN THAT CONTEXT AND  
12 FROM A DEFINITION STANDPOINT.

13 AND WHAT WE DO IS WE LOOK AT IT FROM  
14 A BROAD-BASED PERSPECTIVE, SAY IT'S A RECYCLABLE  
15 ITEM, THAT'S NOT A SIMILARLY SITUATED TYPE TAX  
16 CREDIT. IT'S PURELY AN INCOME TAX CREDIT. AND  
17 FROM AN ADMINISTRATION STANDPOINT, WHEN THE  
18 LEGISLATIVE'S ANALYSIS LOOKED AT IT AND SAID IT'S  
19 RECYCLING -- IT SHOULD BE IN THE RECYCLING  
20 CATEGORY AND NOT AS A TOXIC -- DEALING WITH A  
21 TOXICITY ISSUE.

22 HOW IT'S DEFINED, I THINK THEY  
23 FOLLOW THE DEPARTMENT OF HEALTH SERVICES  
24 INFORMATION, AND I'M NOT SURE IF IT'S -- WHAT  
25 ETHYLENE GLYCOL IS. I THINK THEY ADOPT THE



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1 FEDERAL PROVISIONS DEALING WITH EPA STANDARDS.

2 MS. TRGOVCICH: JUST FOR THE COMMITTEE  
3 MEMBERS, WE DIDN'T INCLUDE IT IN THE ACTUAL  
4 WRITEUP, BUT JUST FOR CLARIFICATION PURPOSES, THE  
5 STATUTE WAS ENACTED IN 1989, THE SAME YEAR AS OUR  
6 PRINCIPAL CORE LAW, THE INTEGRATED WASTE  
7 MANAGEMENT ACT. IT WAS AUTHORED BY ASSEMBLYWOMAN  
8 KILLEA, WHO AUTHORED MANY OF THE OTHER PROCUREMENT  
9 AND INTEGRATED WASTE MANAGEMENT PROVISIONS OF OUR  
10 LAW. SO WE JUST -- WE DID NOT INCLUDE THAT, AND I  
11 JUST WANTED TO MAKE THAT STATEMENT FOR THE RECORD.

12 CHAIRMAN PENNINGTON: ANY QUESTIONS?

13 MEMBER GOTCH: I THINK MR. CHANDLER  
14 COVERED THE TWO QUESTIONS REGARDING IF TOXICS HAD  
15 A SIMILAR TAX CREDIT. NO, I DON'T.

16 CHAIRMAN PENNINGTON: OKAY. THANK YOU,  
17 AND WE'LL HEAR FROM OUR COUNSEL.

18 MS. BORZELLERI: I JUST WANTED TO RESPOND  
19 BRIEFLY TO MR. NEFF'S ARGUMENTS. AS YOU CAN SEE  
20 IN OUR ANALYSIS OF THE INFORMATION, WE DO, IN  
21 FACT, THINK THAT THE BOARD DOES NEED TO TAKE A  
22 NARROW INTERPRETATION OF THIS. CERTAINLY THE  
23 LANGUAGE "WOULD NORMALLY BE DISPOSED OF" MIGHT  
IN  
24 OTHER CONTEXT -- IN OTHER CONTEXT BE SUBJECT TO  
25 ANOTHER CONSTRUCTION, BUT THE WASTE BOARD HAS

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1       TAKEN A PARTICULAR VIEW OF WHAT THAT MEANS.   AND  
2       WHAT WE'RE TALKING ABOUT IS ACTUALLY DIVERSION  
3       FROM THE LANDFILL.   THAT'S A TERM OF ART FOR THE  
4       WASTE BOARD, AND I DON'T THINK WE CAN TAKE THE  
5       ORDINARY BROAD VIEW OF IT IN THIS CASE.

6                   AS WE HAD MENTIONED BEFORE, PRC  
7       SECTION 40141, ALTHOUGH IT DOESN'T SPECIFICALLY  
8       STATE THAT ETHYLENE GLYCOL IS A HAZARDOUS WASTE,  
9       IT PROVIDES A DEFINITION THAT'S VERY SIMILAR TO  
10      WHAT THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL  
11      PROVIDES.   AND THE DEPARTMENT HAS, IN FACT, NAMED  
12      ETHYLENE GLYCOL IN ITS REGULATIONS AS A HAZARDOUS  
13      WASTE.   AND WE HAVE ALWAYS RELIED ON THE  
14      DEPARTMENT IN MAKING THOSE DETERMINATIONS.   AND  
15      SINCE OUR LAW SPECIFICALLY EXCLUDES FROM SOLID  
16      WASTE HAZARDOUS WASTE, WE DON'T SEE HOW THIS CAN  
17      BE BROUGHT IN.

18                   TURNING TO THE OTHER ISSUE THAT YOU  
19      HAD RAISED ABOUT THE GENERAL INTENT OF THE  
20      LEGISLATURE, WE GO BACK TO OUR INTERPRETATION OF  
21      THE REVENUE AND TAXATION CODE, THAT THEY WOULD  
22      HAVE SPECIFIED HAZARDOUS WASTE IN THEIR -- I THINK  
23      LEGISLATURE DOES KNOW THAT IN THIS STATE WE MAKE A  
24      CLEAR DISTINCTION AND WOULD HAVE SPECIFICALLY  
25      STATED HAZARDOUS WASTE HAD THEY MEANT THAT.

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1                   THE OTHER ASPECT OF IT IS, AS CAREN  
2     MENTIONED, THIS LEGISLATION WAS BROUGHT IN AND THE  
3     WASTE BOARD WAS DIRECTED TO BE THE ADMINISTRATIVE  
4     BODY TO HANDLE THAT. I'M SURE THAT THE AUTHOR  
5     KNEW THAT THE WASTE BOARD DOES NOT DEAL WITH  
6     HAZARDOUS WASTE AND PROBABLY WOULD HAVE CLEARLY  
7     MENTIONED THE DEPARTMENT OF TOXICS OR THE DIVISION  
8     OF TOXICS WHEN IT WAS UNDER HEALTH SERVICES.

9                   SO THAT'S BASICALLY OUR  
10    INTERPRETATION OF THE STATUTE. THAT CONCLUDES MY  
11    PRESENTATION FOR THE BOARD.

12                  CHAIRMAN PENNINGTON: WHERE WOULD THIS  
13    MATERIAL BE DISPOSED OF IF IT WASN'T BEING  
14    RECYCLED? AT A HAZARDOUS WASTE FACILITY OR WOULD  
15    IT BE --

16                  MS. BORZELLERI: YES.

17                  CHAIRMAN PENNINGTON: OKAY. OKAY. DO  
18    WE -- ARE WE SUPPOSED TO MAKE A DECISION NOW?

19                  MS. BORZELLERI: THE PROCEDURES THAT WERE  
20    DEVELOPED -- THAT THE BOARD HAD ADOPTED GIVE TEN  
21    DAYS FOR THE COMMITTEE TO MAKE A DETERMINATION.  
22    THAT'S BASICALLY TEN DAYS, NOT TEN WORKING DAYS,  
23    AND IT SAYS WE WILL ISSUE A WRITTEN DECISION TO  
24    THE APPELLANT WITHIN THAT PERIOD OF TIME.

25                  CHAIRMAN PENNINGTON: OKAY. IF THERE'S

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1 NO FURTHER QUESTIONS.

2 MEMBER GOTCH: NO FURTHER QUESTIONS. I  
3 WOULD LIKE TO SAY I LIKE WHAT YOU ARE DOING. I'M  
4 GLAD THAT YOU ARE DOING WHAT YOU ARE DOING. AND  
5 I'LL LEAVE IT AT THAT.

6 MR. NEFF: MAY I ADDRESS THAT ISSUE?

7 CHAIRMAN PENNINGTON: SURE.

8 MR. NEFF: IN THAT CONTEXT IS THAT --  
9 AGAIN, I'M A VICE CHAIR OF THE AMERICAN BAR  
10 ASSOCIATION FOR STATE TAXATION ON ENVIRONMENTAL  
11 ISSUES. I'VE BEEN INVOLVED WITH CONSERVATION TAX  
12 AND SO FORTH AND DEALING WITH CONSTRUCTIONS IN THE  
13 STATES OF UTAH, WITH WYOMING. I WAS TAX COUNSEL  
14 FOR TEXACO FOR A NUMBER OF YEARS AND SO FORTH.

15 AND HAVING DEALT WITH MORE ON THE  
16 TAXATION SIDE DEALING WITH RESPECT TO ENVIRON-  
17 MENTAL TAXES AND CONSERVATION ACTS, I FOUND IT  
18 EXTREMELY PECULIAR THAT IN THE CONTEXT WHERE YOU  
19 HAVE A TAX CREDIT WHICH IS MOTIVATED SPECIFICALLY  
20 AND EXPRESSLY FOR CLEANING UP AND FOR RECYCLING OF  
21 PRODUCTS, THAT THE PRIORITY OF THE LEGISLATURE AND  
22 THE PRIORITY OF THIS BOARD WOULD NOT BE THE  
23 RECYCLING OF PRODUCTS THAT MAY BE DEEMED TO BE  
24 HAZARDOUS.

25 AND AGAIN, I WOULD THINK THAT WOULD



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1 BE THE FIRST PRIORITY, AT LEAST FROM A LEGISLATIVE  
2 PERSPECTIVE. CERTAINLY YOUR ARGUMENT THAT THE  
3 INDIVIDUAL WHO DRAFTED THAT WAS VERY FAMILIAR WITH  
4 THOSE ENVIRONMENTAL ISSUES, THAT I WOULD REASON ON  
5 THE OTHER SIDE THAT THE ABSOLUTE CONCLUSION WOULD  
6 BE IS THAT THAT WOULD BE THE PRIMARY INTENT.

7 AND IN THAT CONTEXT, IF YOU LOOK AT  
8 THROUGHOUT -- I'VE DEALT WITH ISSUES IN ALASKA,  
9 I'VE DEALT WITH ISSUES IN CALIFORNIA ON THE  
10 GENERATION, ON THE DISPOSAL SITES, AND SO FORTH  
11 DEALING WITH TAXATION, AND THAT HAS ALWAYS BEEN A  
12 PRIORITY AND THE PRIMARY PURPOSE FOR WHICH  
13 RECYCLING CREDITS HAVE BEEN AN APPLICATION.

14 IN THAT APPLICATION I'M SOMEWHAT  
15 PUZZLED IF I WAS A CONSUMER, IF I WAS AN  
16 INDIVIDUAL WHO WAS LOOKING AT THIS CREDIT, AND IF  
17 I PUT MY TAX LAWYER HAT ON AND LOOKED SPECIFICALLY  
18 AT THAT AND LOOKED AT MEETING THE QUALIFICATIONS,  
19 THAT WHETHER OR NOT WHAT PROCEDURES OR WHAT  
20 STATUTES THAT YOU LOOK AT, THAT YOU CAN COME UP  
21 WITH TWO DIFFERENT CONCLUSIONS.

22 AND ONE CONCLUSION IS, IF YOU LOOK  
23 AT THE CONSTRUCTION THAT THE BOARD LOOKS AT  
24 DEALING WITH THE PUBLIC RESOURCES CODE OF SOLID  
25 WASTE BEING EXCLUDED FROM HAZARDOUS WASTE, IF  
YOU

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1 LOOK AT FEDERAL LEGISLATION, BY DEFINITION THE  
2 PRODUCT WOULD NOT BE NONHAZARDOUS. IT WOULD BE  
3 RECYCLABLE. BUT EVEN IN THE CONTEXT OF, IF YOU  
4 LOOK AT THE HAZARDOUS WASTE DEFINITION, CONTINUES  
5 TO VARY. AND IF YOU LOOKED AT THE CHLORINE OR THE  
6 WATER THAT SITS IN THE SWIMMING POOL THAT'S  
7 FLUSHED DOWN, BUT I WOULD THINK THAT THE PRIMARY  
8 INTENT WOULD BE TO BE ABLE TO TAKE THIS TYPE OF  
9 PRODUCT, HAVE IT USED, AND HAVE IT CLEANED UP, AND  
10 BE RECYCLED.

11 AND IF YOU LOOK AT IT JUST FROM A  
12 LAYMAN'S PERSPECTIVE, IF THERE'S A TAX CREDIT AND  
13 IT'S REFLECTIVE TO RECYCLING, AND THIS IS A  
14 RECYCLING PROCESS THAT TAKES OFF A SUBSTANCE  
15 THAT'S UNFAVORABLE AND PUTS IT IN THE CONTEXT  
16 WHERE NO MORE OF THAT SUBSTANCE WOULD HAVE TO BE  
17 MANUFACTURED AND IT WOULD BE CAPTIVE WITHIN A  
18 CERTAIN ENVIRONMENT, THAT IT MAKES SENSE TO ME  
19 THAT SHOULD BE THE CONCLUSION OF THE BOARD.

20 SO CONTINUALLY I GUESS YOU COULD  
21 TAKE THE WORST-CASE SCENARIO OF TAKING ONLY THINGS  
22 THAT WERE PLEASANT THAT COULD BE RECYCLED, THAT  
23 WOULD BE THE INTENT OF THE COMMITTEE. WE COULD  
24 RECYCLE, YOU KNOW, SHOE POLISH OR WHATEVER THOSE  
25 THINGS THAT WOULD HAVE HAZARDOUS WASTE CONTENTS IN

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1        THAT; BUT IF YOU HAD SOMETHING, THE MOST  
2        FAVORABLE, WONDERFUL THINGS IN THE WORLD SHOULD BE  
3        ONLY RECYCLED, I WOULD THINK THE ALTERNATIVE TO  
4        THAT WOULD BE IS YOU WANT TO TAKE THE UNPLEASANT  
5        THINGS IN OUR LIFE AND TAKE THE UNPLEASANT  
6        SUBSTANCES IN LIFE AND THAT SHOULD BE CONSTRUCTIVE  
7        AND SHOULD BE THE CONTROLLING POINT.

8                        BUT I AGAIN SAY IS FROM A  
9        CONSTRUCTION PERSPECTIVE, AND IT WAS SOMEWHAT OF  
10       AN ESOTERIC POINT, OKAY, BUT THE POINT IS VERY  
11       SIMPLY IF THE LEGISLATURE WOULD HAVE INTENDED AND  
12       THE CONSTRUCTION FOR TAX CREDITS IS TO MOTIVATE  
13       SOCIAL POLICY, UNLIKE ANY TAXING NATION IN THE  
14       WORLD, OKAY, AND BEING AN ADJUNCT PROFESSOR AT TWO  
15       SCHOOLS, THAT IF YOU LOOK TO THAT ANALYSIS THAT  
16       THE UNITED STATES HAS CONTINUALLY MOTIVATED SOCIAL  
17       POLICY AND MANUFACTURING AND BUSINESS ECONOMICS TO  
18       PROVIDING INCENTIVES. THIS IS AN INCENTIVE FOR A  
19       RECYCLER.

20                        THIS IS -- OUR CLIENT IS AN  
21       INDIVIDUAL WHO HAS A GROUP OF COMPANIES THAT  
22       PROVIDE A TREMENDOUS SERVICE BY TAKING SUBSTANCE  
23       THAT MAY BE DEEMED TO BE HARMFUL, THAT MAY BE  
24       CONTAMINATORY, AND TAKING THEM OUT OF THE  
25       MARKETPLACE AND CONTINUE THEM IN. AND FOR US TO

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1       SIT BACK AND SAY THAT THAT CONSTRUCTION SHOULD BE  
2       NARROWLY CONSTRUED, AND EVEN IF YOU WERE NARROWLY  
3       CONSTRUED, WHETHER IT'S A TERM OF ART, WHETHER  
4       IT'S A TERM OF COURTS, THAT IT SAYS THAT THESE ARE  
5       ITEMS THAT NORMALLY WOULD BE DISPOSED OF AS SOLID  
6       WASTE AND BECAUSE THEN THE NEXT PROVISION -- THE  
7       NEXT STEP ON THAT LADDER SAYS SOLID WASTE DOESN'T  
8       MEAN HAZARDOUS WASTE, EXCLUDES HAZARDOUS WASTE, WE  
9       CAN GO DOWN AND LOOK AT THE FEDERAL LEGISLATION,  
10      WE CAN LOOK AT THE DEPARTMENT OF HEALTH SERVICES.  
11      THERE'S OTHER PROVISIONS THAT SPECIFICALLY STATE  
12      IF WE WERE TO GO DOWN AND JUST TAKE A RIGHT TURN  
13      INSTEAD OF A LEFT TURN THAT WOULD CONCLUDE THAT  
14      THOSE ITEMS WOULD BE NONTAXABLE.

15                       SO GIVEN THAT ATMOSPHERE FROM AN  
16      ENVIRONMENTAL PERSPECTIVE OF WHICH WAY YOU CAN  
17      TURN, RIGHT OR LEFT, OR WHETHER OR NOT YOU CAN  
18      LOOK AT THE BROAD POLICY OF TAXING INCENTIVES  
THROUGHOUT THE COURSE OF THE UNITED STATES, OUT OF  
THE COURSE OF CALIFORNIA, THAT IT'S PROBABLY  
CONSTRUED AND THOSE TAX CREDITS SHOULD BE IN  
PLACE.  AND WITH THAT I THANK YOU.

          CHAIRMAN PENNINGTON:  THANK YOU.  WE WILL  
ABIDE BY THE LAW AND LET YOU KNOW WITHIN THE  
TEN-DAY PERIOD.



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MR. NEFF: THANK YOU.

CHAIRMAN PENNINGTON: ANYBODY ELSE HAVE 3 ANYTHING TO ADD TO  
THAT? IF NOT, WE'LL ADJOURN. 4 THANK YOU.

6

(END OF PROCEEDINGS AT 3:10 P.M.)

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